IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)
Plaintiff,)
V.) Criminal Action No. 06-23-KAJ
NICOLE PFUND,)
Defendant.)

JOINT MOTION TO AMEND SENTENCING HEARING RECORD TO INCLUDE DOCUMENTS RELATING TO DEFENDANT'S CRIMINAL HISTORY/RELEVANT CONDUCT

COMES NOW the United States of America, by and through its attorneys, Colm F. Connolly, United States Attorney for the District of Delaware, and Shannon T. Hanson, Assistant United States Attorney for the District of Delaware, and James J. Haley, counsel for defendant Nicole Pfund, and hereby requests that the Court reopen and amend the record of the sentencing hearing in the above-captioned case, held by the Court on November 13, 2006, to include documents referred to at that hearing (specifically proposed Joint Hearing Exhibits 1-6, appended hereto), and for their reasons state as follows:

- (1) On November 13, 2006, defendant Nicole Pfund was sentenced by the Court to a term of imprisonment of 100 months, five (5) years supervised release, restitution totaling \$36,149.06, and a special assessment of \$100. See 11/13/2006 Sentencing Transcript, Docket Item ("D.I.") 31, at 12-15.
- (2) At the sentencing hearing, defense counsel raised an issue with respect to the computation of loss and relevant conduct under the U.S. Sentencing Guidelines, specifically with respect to certain prior criminal activity of the defendant in New Jersey. *See* D.I. 31 at 3-4. In short, defense counsel was advocating for a 10 level increase under U.S.S.G. Sec. 2B1.1(b)(1)(F), rather than a 12 level increase for losses over \$200,000 pursuant to U.S.S.G. Sec. 2B1.1(b)(1)(G). In

responding to defense counsel, the Court referenced documentation from the New Jersey courts provided by the Probation Officer to the Court and to counsel immediately prior to the sentencing hearing. D.I. 31 at 4. Thereafter, government counsel indicated that she had reviewed the materials provided by the Probation Officer and noted that these materials related to the conduct at issue in paragraphs 66, 68, 75, 76, 78 and 80 of the defendant's Presentence Investigation Report. D.I. 31 at 5-6. Government counsel argued that the documentation provided by the Probation Officer demonstrated that the counts of conviction in each of the New Jersey bad check cases listed in those paragraphs were not the same as the bad check counts included as relevant conduct in the federal prosecution. *Id.* The Court accepted the government's argument and the Probation Officer's calculations and found that the defendant's total offense level was 24, which included a 12 level increase for losses over \$200,000 pursuant to U.S.S.G. Sec. 2B1.1(b)(1)(G). *Id.* at 6.

(3) Defendant Pfund filed a timely appeal. D.I. 26, 27, and 28. To insure that the record on appeal is clear and complete, the parties respectfully request that the documentation provided by the Probation Officer, reviewed by parties and the Court, and referred to repeatedly during the Sentencing Hearing, be made part of the record of that Sentencing Hearing. The parties have attached hereto, as proposed Joint Hearing Exhibits 1-6, those materials reviewed at sentencing which the parties respectfully request be made a part of the record. Defense counsel has reviewed the contents of this joint motion and proposed order, approved them, and authorized government counsel to sign this Motion on his behalf. A proposed Order is attached.

Respectfully submitted,

COLM F. CONNOLLY United States Attorney

Shannon Thee Hanson

Assistant United States Attorney

Dated: December 12, 2006

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

UNITED STATES OF A	AMERICA,).			
v. NICOLE PFUND,	nintiff, fendant.)	Criminal A	ction No. 06-2	23-KAJ
	O AMEND SEN CUMENTS RI IMINAL HIST	ELATING 1	TO DEFENDA	ANT'S	INCLUDE
Having reviev	ved the parties'	Joint Motio	n to Amend S	entencing Hea	aring Record to
Include Documents Relat	ing to the Defen	ndant's Crimi	nal History/Re	levant Condu	ct, it is
HEREBY ORDERED a	s follows:				
(1) The reco	rd of the Noven	nber 13, 200	6 sentencing h	earing in the a	bove-captioned
case IS REOPENED and	d the record IS.	AMENDED	to include the	documents id	lentified in and
appended to the parties' j	oint motion as J	oint Hearing	Exhibits 1-6.		
				· .	
			orable Kent A tates District J		
Dated: December,	2006.				

THE STATE OF NEW JERSEY

JULY TERM, 2004

٧.

(A)INDICTMENT NO. 04-07-00567-1

NICOLE PFUND

Defendants

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Drissels having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000259-0818 (theft by decep)

SECOND COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Drissels, check number 3 670 d rawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Drissels in the amount of \$313.58, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000259-0818 (uttering)

THIRD COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Bloomers having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000261-0818 (theft by decep)

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 28, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Bloomers, check number 3671 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Bloomers in the amount of \$361.20, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000261-0818 (uttering)

FIFTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 2, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Lamp and Shade Works having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000260-0818 (theft by decep)

SIXTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that NICOLE PFUND, on or about October 2, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Lamp and Shade Works, check number 3684 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Lamp and Shade Works in the amount of \$482.20, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000261-0818 (uttering)

SEVENTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 3, 2003, in the Township of Washington, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Lamp and Shade Works having a value in excess of \$500.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000299-0818 (theft by decep)

EIGHTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NiCOLE PFUND**, on or about October 3, 2003, in the Township of Washington, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Lamp and Shade Works, check number 3689 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Lamp and Shade Works in the amount of \$683.70, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000299-0818 (uttering)

FOREMAN

CASE: 04000759

COUNTY PROSECUTOR

Case 1:06-cr-00023-KAJ Document 33-2 Filed 12/12/2006 Page 4 of 28

STATE OF NEW JERSEY 04000759-001 A NEW JERSEY SUPERIOR COURT PAGE 01 OF 01 GLOUCESTER COUNTY LAW DIVISION-CRIMINAL

NICOLE PFUND

DATE OF ARREST

XX JUDGMENT OF CONVICTION CHANGE OF JUDGMENT

DATE OF BIRTH 07/18/1975

S.B.I.# DATE IND/ACCUSATION FILED 07/28/2004

981511B XX ORDER FOR COMMITMENT INDICTMENT/ACCUSATION DISMISSED

DATE OF THE ORIGINAL PLEA 01/31/2005 ORIGINAL PLEA WAS

__ NOT GUILTY XX GUILTY

JUDGMENT OF ACQUITTAL

ADJUDICATION BY XX GUILTY PLEA DATE 01/31/2005 ___ NON-JURY TRIAL DATE ___ DISM/ACQUITTED DATE

ORIGINAL CHARGES ON IND 04-07-00567-I

COUNT(S) DESCRIPTION

001, 003 THEFT BY DECEPTION 002, 004 FORGERY-UTTER

005, 007 THEFT BY DECEPTION 006. 008 FORGERY-UTTER

DEGREE STATUTE 4 2C:20-4

4 2C:21-1A(3)

3 2C:20-4

4 2C:21-1A(3)

FINAL CHARGES

COUNT(S) DESCRIPTION 007 THEFT BY DECEPTION DEGREE STATUTE 3 2C:20-4

IT IS THEREFORE ON MARCH 21 2005

ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 007, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO A04-09-00660-I, A04-08-00600-I & TO THE SENTENCE SHE IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTY. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 & 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB & \$75 SSNA. RESTITUTION AS INDICATED UNDER A04-09-00660-I. MONETARY PAYMENTS, INCLUDING RESTITUTION, & DNA TESTING & COSTS APPLY & ARE C/C TO A04-09-00660-I. ** DISMISSALS: COUNTS 1 THRU 6 & 8 OF A04-07-00567-I.

CARE COMMISS/CORR

TOT. PROBATION: 00Y 00M

^() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

⁽x) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY TOT. DAYS 16 DATES SEE ABOVE

 $^{(\}chi)$ defendant receives gap time credit for time spent in custody tot. Days $\frac{76}{6}$ dates SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 000 INSTITUTION:

Case 1:06-cr-00023-KAJ Document 33-2 Filed 12/12/2006 Page 5 of 28 STATE OF NEW JERSEY V. NICOLE PFUND SBI# 981511B IND/ACC# 04-07-00567-I \$.00 1) A MANDATORY DEDR PENALTY IS IMPOSED TOTAL FINE TOTAL RESTITUTION \$.00 0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750 0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500 IF THE OFFENSE OCCURRED ON/AFTER 0 3RD DEGREE @ \$1000 12/23/91 AN ASSESSMENT OF \$50 IS TOTAL DEDR PENALTY \$:00 () COURT ORDERS THAT COLLECTION OF DEDR PENALTY BE SUSPENDED UPON DEFENDANT'S IMPOSED ON EACH CONVICTED COUNT UNLESS THE BOX BELOW INDICATES ENTRY INTO A RESIDENTIAL DRUG PROGRAM FOR THE TERM OF THE PROGRAM A HIGHER ASSESSMENT (\$30 IF OF-2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED OFFENSES @ \$50. FENSE OCCURRED ON/AFTER 1/9/86 UNLESS HIGHER ASSESSMENT NOTED) TOTAL LAB FEE (\$25 IF OFFENSE BEFORE 1/1/86) 3) DRUGS INVOLVED: 4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF ____ MO. IS ORDERED (X) ASSESSMENT IMPOSED ON THE SUSPENSION BEGINS ____ END: COUNT(S) 1 DRIVERS LICENSE # IS \$50.00 EACH. \$50.00 DEFENDANT ADDRESS:

SEX DATE OF BIRTH TOTAL VCCB ASSESS SSNA \$75.00 () INSTALLMENT PAYMENTS ARE () DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM OF \$ PER ____ JURISDICTION DRIVERS LICENSE # BEGINNING () YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR IF OFFENSE OCCURRED ON/APTER 02/01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS

ORDERED EACH OCCASION A PAYMENT OR INSTALLMENT IS MADE. IF OFFENSE OCCURRED ON/AFTER 08/02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION IF OFFENSE OCCURRED ON/AFTER 01/05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERED AMOUNT PER MONTH ___ n/a

NAME OF FORM PREPARER S. ARRISON

REPORTER:

TELEPHONE# 609 853 3534

NAME (ATTORNEY) NEIL A HARTMAN ESQ.

REASONS

SEE ATTACHED "REASONS FOR SENTENCE"

WALTER L MARSHALL JR, J.S.C.

JUDGE (SIGNATURE)

MARCH 21 2005

JUDGE (NAME)

DATE

STATE v. NICOLE PFUND SENTENCE DATE: 3/21/05 INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I, A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-l, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-l, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-l, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-l, attempted theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-l, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

REASONS FOR SENTENCE, WHICH APPLY TO ALL SENTENCES

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

N	one

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

ATLANTIC CITY NJ AUTOMATED COMPLAINT SYSTEM 09/06/2006 CMM1102 Case 1:06-cr-00023-KAJ Document 35-2^{INQ}File 12/12/2006 Page 7 of 28 16:41

COMPLAINT NO : W 2004 530628 COURT CODE : 1709 COMPLAINT STATUS: DSUS TOTAL CHARGES : 002 BAIL STATUS : BAIS WARR STATUS: SEALED IND: CO-DEF COUNT: 000 RELATED COMP : N POLICE CASE NO: A14004544 ISSUED DATE : 03 02 2004 DORA DATE: 00 00 0000 AGNCY/OFFR/UNIT: 2200 5864 A140 OFFENSE DATE: 10 08 2003 ENTERED DATE: 03 02 2004 OPERATOR ID : JUMLB5P

DEF NAME : NICOLE PFUND DOB: 07 18 1976

DEF ADDRESS: 24 CANDELSTICK ROAD

STATE: NJ ZIP CODE: 08021

CITY: LAUREL SPRINGS STATE: NJ Z PHONE NO: 000-000-0000 DLN: P30545910057764 DLN STATE: NJ

COMPL NAME :

HEARING DATE : 05 11 2004 TIME: 09:00 A ROOM: 0001 TYPE: FIAP

ADJOURNED DATE: 05 11 2004 COMPLAINT PLEA CODE: 9

REASON : COURT ADJOURNMENT

TRANSFERRED TO: 0089 DATE: 03 02 2004 TRANSFERRED FROM: 0089 DATE: 05 11 2004

COMMENTS :

PF1-M/P COMPLNT PF2-NARRATIVE PF3-OFFENSE/DISP ATLANTIC CITY NJ AUTOMATED COMPLAINT SYSTEM CMM1122 Case 1:06-cr-00023-KAMPLADOCUMENTERS 2VE File 12/2/2006 Page 8 of 28: 42

COMPLAINT NO: W 2004 530628 COURT CODE: 1709 COMPLAINT STATUS: DSUS

DEFENDANT : NICOLE

PFUND

RELATED COMP : N

PAGE: 0001

WITHIN THE JURISDICTION OF THIS COURT, COMMIT THEFT BY DECEPTION BY ISSUING A BANK CHECK IN AMT OF \$334.74 TO PURCHASE A TROY-BILT LAWNMOWER FROM ROORKS, BY USING A WACHOVIA BANK ACCOUNT CHECK IN THE NAME OF TABITHA L RASTELLI, KNOWING THIS IS NOT HER TRUE IDENTITY, IN VIOLATION NJS 2C:20-4A

WITH THE JURISDICTION OF THIS COURT, UTTER A WRITING WHICH SHE KNEW TO BE FORGED SPECIFICALLY BY PRESENTING TO ROORKS, A WACHOVIA BANK CHECK IN THE NAME OF TABITHA L RASTELLI, IN THE AMOUNT OF \$334.74 IN VIOLATION OF NJS 2C:21-1A(3)

P C IS FOUND BASED ON NARRATIVE AND ADM OF OATH

PF7 - PAGE BACK PF8 - PAGE FWD

ATLANTIC CITY NJ AUTOMATED COMPLAINT SYSTEM CMM1130 Case 1:06-cr-00023-KAJCHARGEINDERSTESSE ZTIONIEDNO 2018/2006	Page 9 of 28 09/06/2006 16:42
COMPLAINT NO: W 2004 530628 COURT CODE: 1709 COU DEFENDANT: NICOLE PFUND REL CHARGE SEQ: 002 CHARGE STATUS: DISP COMPLAI OFFENSE: 2C:21-1A(3) ACSX: AUX OFFNS:	ATED COMP: N NT STATUS: DSUS
DEGREE: I FORGERY PLEA : 9 PLEA DT: 00 00 0000 DISP DT: 05 07 2004 FINDING:	S MODIFY TYPE:
COND DISCHARGE ST: AMENDED OFFENSE: LI AMENDED OFFENSE DESC:	
SENTENCE TERMS CODE DURATION TERMS STA 1. 1. 1. 1.	TUS SERVED CREDIT
2. 2. 2. 2. 2. 3. 3. 3.	2.
3. 3. 3. 3. 3. 3. 3. 3. 3. 3. 3. 3. 3. 3	3. AMOUNTCODE
FINE: 1. 2. COST: 4. 5.	3. 6.
7. 8. 10. 11.	9. 12.

OFFENSE COMMENTS:

DISP COMMENTS: INTERFACED REMAND

ATLANTIC CITY CMM1130 Case 1:06-cr-00	DO23-KAJ _{CH} RE	iated compi i <mark>mens 3</mark> 3s2 ti	AINT SYSTEM Medwyd12/200	06 Page 1	0 of 28 09/06/2006 16:42
COMPLAINT NO: W 2 DEFENDANT : NICOI CHARGE SEQ : 001 OFFENSE: 2C:20-4	LE I CHARGE	FUND STATUS: TI		RELATED C	COMP: N
DEGREE: N					
PLEA : 1 PLEA DT: (COND DISCHARGE ST:			1 2004 FINDI 20-4A		MODIFY TYPE: C SURRENDERED:
AMENDED OFFENSE DESC SENTENCE TERM		CEPTION	TERMS	STATHS	SERVED CREDIT
1. 1.		1.	1.		1.
2. 2.		2.	2.		2.
3. 3.		3.			3.
AMOUNT	AMOUNT-	CODE	AMOUNTC	:ODE	AMOUNTCODE
FINE: \$300.00	1. \$39.	00 VC 2.	\$75.00	sn 3.	\$8.00 VF
COST: \$58.00	4. \$3.	00 CF 5.	\$334.74	RT 6.	\$6.00 PO
	7. \$2.	00 AF 8.		9.	
	10.	11.		12.	

OFFENSE COMMENTS:

DISP COMMENTS: GL CO VID CRT/5-19-04 J ASSESS RT/NO WARR-SENT ST PRIS

SUPERIOR COURT OF NEW JERSEY COUNTY OF GLOUCESTER LAW DIVISION - CRIMINAL

THE STATE OF NEW JERSEY

JULY TERM, 2004

V.

(A) INDICTMENT NO. 04-09-00660 I

NICOLE PFUND

Defendants

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 11, 2003, in the Township of Deptford, in the County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Best Buy, check number 3640 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Best Buy in the amount of \$2,750.00, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000393-0802 (uttering)

SECOND COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 11, 2003, in the Township of Deptford, County of Gloucester, aforesaid and within the jurisdiction of this Court, did issue check number 3640 drawn on the account of Tabitha Rastelli at the Wachovia Bank in the amount of \$2,750.00 knowing that Wachovia Bank would not honor said check, contrary to the provisions of N.J.S. 2C:21-5 and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000393-0802 (bad check)

THIRD COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about September 22, 2003, in the Township of Deptford, in the County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Eckerd, check number 3683 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Eckerd in the amount of \$157.00, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000440-0802 (uttering)

CRIMINAL CASE MENTUER'S DEFICE

JT. HRG. EXH. 3

FOURTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that NICOLE PFUND, on or about October 6, 2003, in the Township of Deptford, in the County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Marburn Curtain, check number 3701 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Marburn Curtain in the amount of \$159.00, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000441-0802 (uttering)

FIFTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that NICOLE PFUND, on or about September 11, 2003, in the Township of Deptford, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Best Buy having a value in excess of \$2,750.00, by deception, that is by creating or reinforcing the false impression that the check uttered was not forged or fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000393-0802 (theft by decep)

CASE: 04000758

STATE OF NEW GARRY 1:064600000033-KAJ Document 33-2 NEW File of 130612/2006 RT Rage of 3061028 GLOUCESTER COUNTY LAW DIVISION-CRIMINAL

NICOLE PFUND		•	XX JUDGMENT OF CON CHANGE OF JUDGM	
DATE OF BIRTH 07/18/1975	S.B.I.#	981511B	XX ORDER FOR COMMI	TMENT
DATE OF ARREST	DATE IND/ACCUSATION FILED	09/01/2004	INDICTMENT/ACCU	SATION DISMISSED
DATE OF THE	ORIGINAL PLEA WAS		JUDGMENT OF ACC	UITTAL
ORIGINAL PLEA 01/31/2005	NOT GUILTY XX GUILT	TY .		
ADJUDICATION BY XX GUILTY	PLEA DATE 01/31/2005	NON-JURY TRI	AL DATE	
JURY TI		•		
ORIGINAL CHARGES ON IND 04-09	9-00660-1			
COUNT(S) DESCRIPTION			TUTE	
001, 003 FORGERY-UTTER	•	4 2	C:21-1A(3)	
002 BAD CHECKS OVER \$200	0 -KNOWING	3 .2	C:21-5	** :
004 FORGERY-UTTER		4 2	C:21-1A(3)	
005 THEFT BY DECEPTION		3.2	C:20-4	•
				*
		,		
FINAL CHARGES				
COLDEN (C) DECCEPTION		DECEMBER OF	MV VIII I	

IT IS THEREFORE ON MARCH 21 2005 ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 005, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO THE SENTENCE THE DEFENDANT IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTY. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 AND 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB, \$75 SSNA & \$30 LEOPA. RESTITUTION AS FOLLOWS: \$87.23 TO SCHALICK MILLS, INC.; \$1,157.07 TO SELECTIVE INSURANCE CO.; \$376.20 TO BLOOMERS HOME & GARDEN; \$159 TO MARBURN CURTAIN; \$683.70 TO LAMP SHADE WORKS; \$1,122.88 TO WARREN'S HARDWARE; \$325.58 TO DRISSEL'S HARDWARE; & \$411.59 TO ECKERD DRUG STORE. DEFENDANT TO PROVIDE A DNA SAMPLE, AT THE DIRECTION OF THE COUNTY JAIL OR PRISON SYSTEM, AS APPLICABLE, & PAY FOR COSTS OF TESTING. ALL MONETARY OBLIGATIONS, INCLUDING RESTITUTION, ARE PAYABLE THROUGH THE PRISON SYSTEM OR PAROLE AUTHORITIES, AS APPLICABLE. ** DISMISSALS: COUNTS 1 THRU OF 04-09-00660-I; COUNTS 1 & 2 OF W-2004-000440-0802, DP; & COUNTS 1 & 2 OF W-2004-000441-0802, DP.

3 2C:20-4

THEFT BY DECEPTION

^() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

⁽X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY TOT. DAYS 16 DATES SEE ABOVE

⁽X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY TOT. DAYS 76 DATES SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 000 INSTITUTION:

... Case 1:06-cr-00023-KAJ Document 33-27- Filed 12/12/2006 ... Page 14 of 28

		•		
	DED ALLACHED KEADON	NO LOW OFMITTINGE		
	SEE ATTACHED ''REASOI	NS FOD SENTENCE!	•	
REPORTER:	REASONS	· · · · · · · · · · · · · · · · · · ·		
	· ·			- -
NAME OF FORM PREPARER S. ARRISON	TELEPHONE# 609 853 3534	NAME (ATTORNEY) NEIL A HARTMAN ESQ.		•
IF OFFENSE OCCURRED ON/AFTER 0 ORDERED EACH OCCASION A PAYMEN' IF OFFENSE OCCURRED ON/AFTER 0 IF OFFENSE OCCURRED ON/AFTER 0 AMOUNT PER MONTH 1/a	T OR INSTALLMENT IS MADE 8/02/93 A \$75 SAFE NEIGH 1/05/94 & SENTENCE IS PR	BORHOOD SERVICES FUND ASSESSM OBATION A FEE OF UP TO \$25 PE	ENT IS ORDERED ON EACH	CONVICTION
SNA \$/5.00 THOPA \$30 RE OF \$ PER BEGINNING	() DEFENDANT HOLD JURISDICTION () YOUR NON-RESID	S AN OUT-OF-STATE DRIVERS LIC DRIVERS LICENSE # ENT DRIVING PRIVILEGE IS REVO	ENSE FROM KED FOR MONTHS	
TOTAL VCCB ASSESS \$50.00 SSNA \$75.00 LEOPA \$30.0 () INSTALLMENT PAYMENTS ARE	DEFENDANT ADDRESS:	SEX DAME OF BIRTH		
(X) ASSESSMENT IMPOSED ON COUNT(S) 1 IS \$50.00 EACH.	DRIVERS LICENSE #			
(X) ASSESSMENT IMPOSED ON	4) A MANDATORY DRIVER THE SUSPENSION BEG	'S LICENSE SUSPENSION OF	MO. IS ORDERED	
UNLESS HIGHER ASSESSMENT NOTED (\$25 IF OFFENSE BEFORE 1/1/86)		TOTAL LAB FEE \$.	00	•
A HIGHER ASSESSMENT (\$30 IF OF FENSE OCCURRED ON/AFTER 1/9/86	- 2) A FORENSIC LABORAT	ORY FEE OF \$50 PER OFFENSE OF	DERED OFFENSES @ \$5	
IMPOSED ON EACH CONVICTED COUN UNLESS THE BOX BELOW INDICATES	T () COURT ORDERS THE ENTRY INTO A RE	AT COLLECTION OF DEDR PENALTY SIDENTIAL DRUG PROGRAM FOR TH	BE SUSPENDED UPON DEF:	ENDANT'S
12/23/91 AN ASSESSMENT OF \$50	IS	TOTAL DEDR PENALTY	\$.00	
IF THE OFFENSE OCCURRED ON/AFT	0 2ND DEGREE @ \$200	DISORDERLY PERSONS	\$500	•
TOTAL FINE \$.0 TOTAL RESTITUTION \$4,323.2				
		OOSBI# 9819IIB IND/ACC# OF	1-03-04894-1 . 0. =0	

WALTER L MARSHALL JR, J.S.C.

JUDGE (NAME)

JUDGE (SÏGNATURE)

MARCH 21 2005

DATE

SENTENCE DATE: 3/21/05

STATE v. NICOLE PFUND INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I, A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

REASONS FOR SENTENCE, WHICH APPLY TO ALL SENTENCES

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

NI	^	-	\sim

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

04000207 W530629 W530630

JOHN T. LENAHAN, COUNTY PROSECUTOR
SALEM COUNTY PROSECUTOR'S OFFICE
FENWICK BUILDING
87 MARKET STREET
SALEM, NEW JERSEY 08079
Telephone (856) 935-7510, ext 8333
Attorney for Plaintiff/State of New Jersey

THE STATE OF NEW JERSEY

NOVEMBER SESSION 2004 TERM

Plaintiff,

VS.

INDICTMENT NO. 04-12-00439-1

NICOLE PFUND AKA TABITHA L. RASTELLI THEFT BY DECEPTION:
(Third Degree) (Two Counts)
UTTERING FORGED INSTRUMENT:
(Fourth Degree) (Two Counts)

Defendant

The Grand Jurors of the State of New Jersey, for the County of Salem, upon their oaths and affirmations PRESENT that on or about the 08th day of October, 2003, in the Boro of Elmer, in the County aforesaid and within the jurisdiction of this Court, NICOLE PFUND AKA TABITHA L. RASTELLI purposely did obtain in excess of \$500.00, from,

Carl Harz Furniture by deception, that is, by creating or reinforcing the false impression that the check she wrote in order to pay for items purchased would be honored by Wachovia Bank, contrary to the provisions of N.J.S.A.

2C:20-4, and against the peace of this State, the government and dignity of the same.

SECOND COUNT

And the Grand Jurors aforesaid, upon their oaths aforesaid do further PRESENT that the said NICOLE PFUND AKA TABITHA L. RASTELLI at the time and place aforesaid and within the jurisdiction of this Court, with the purpose to defraud or injure, knowingly did utter as true to Carl Harz Furniture check number 3705 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Carl Harz Furniture in the amount of \$1162.72 bearing thereon a forged or falsely made signature or endorsement, knowing the same to be forged of falsely made, contrary to the provisions of N.J.S.A. 2C:21-1a(3), and against the peace of this State, the government and dignity of the same.

THIRD COUNT

And the Grand Jurors aforesaid, upon their oaths aforesaid do further PRESENT that the said NICOLE PFUND AKA TABITHA L. RASTELLI on or about the 29th day of September, 2003 in the Boro of Elmer, County of Salem and within the jurisdiction of this Court, purposely did obtain in excess of \$500.00, from Schalick Mills Inc., by deception, that is, by creating or reinforcing the false impression that the check she wrote in order to pay for items purchased would be honored by Wachovia Bank, contrary to the provisions of N.J.S.A. 2C:20-4, and against the peace of this State, the government and dignity of the same.

FOURTH COUNT

And the Grand Jurors aforesaid, upon their oaths aforesaid do further PRESENT that the said NICOLE PFUND AKA TABITHA L. RASTELLI on or about the 29th day of September, 2003 in the Boro of Elmer, County of Salem and within the jurisdiction of this Court, with the purpose to defraud or injure, knowingly did utter as true to Schalick Mills Inc. check number 3677 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Schalick Mills Inc. in the

amount of \$1544.99 bearing thereon a forged or falsely made signature or endorsement, knowing the same to be forged of falsely made, contrary to the provisions of N.J.S.A. 2C:21-1a(3), and against the peace of this State, the government and dignity of the same.

A True Bill Returned

Mall July Foreperson

Salem County Prosecutor

Receipt of copy of the within indictment before entry, of plea is acknowledged, pursuant to Rule 3:5-1.

Defendant

STATIS OF NEW JERSEY 1:06-CI-00023-KAJ Document 33-2 Filed 12/12/2006 PAGE 20 Of 28 GLOUCESTER COUNTY LAW DIVISION-CRIMINAL

XX JUDGMENT OF CONVICTION NICOLE PFUND CHANGE OF JUDGMENT 981511B XX ORDER FOR COMMITMENT DATE OF BIRTH 07/18/1975 S.B.I.# INDICTMENT/ACCUSATION DISMISSED DATE IND/ACCUSATION FILED 12/22/2004 DATE OF ARREST JUDGMENT OF ACQUITTAL ORIGINAL PLEA WAS DATE OF THE __ NOT GUILTY ORIGINAL PLEA 01/31/2005 XX GUILTY NON-JURY TRIAL DATE XX GUILTY PLEA DATE 01/31/2005 ADJUDICATION BY __ DISM/ACQUITTED DATE ___ JURY TRIAL DATE ORIGINAL CHARGES ON ACC 04-12-00439-Z DEGREE STATUTE COUNT(S) DESCRIPTION 001, 003 THEFT BY DECEPTION 3 2C:20-4 4 2C:21-1A(3) 002, 004 FORGERY-UTTER FINAL CHARGES

COUNT(S) DESCRIPTION 001 THEFT BY DECEPTION DEGREE STATUTE

3 2C:20-4

IT IS THEREFORE ON MARCH 21 2005

ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 001, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO A04-09-00660-I, A04-08-00600-I, A04-07-00567-I, A04-06-00474-1 & TO THE SENTENCE SHE IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTY. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 & 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB & \$75 SSNA. RESTITUTION AS INDICATED UNDER A04-09-00660-I. MONETARY PAYMENTS, INCLUDING RESTITUTION, AND DNA TESTING & COSTS APPLY & ARE C/C TO A04-09-00660-I. ** DISMISSALS: COUNTS 2, 3 & 4 OF 04-12-00439-Z.

(X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 16 DATES SEE ABOVE

(X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY TOT. DAYS 76 DATES SEE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 000 INSTITUTION:

CARE COMMISS/CORR

TOT. PROBATION: 00Y 00M

^() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

Case 1:06-cr-00023-KAJ Document 33-2 Filed 12/12/2006 Page 21 of 28 STATE OF NEW JERSEY V. NICOLE PFUND

TOTAL FINE \$.00	1) A MANDATORY DEDR PENALTY IS IMPOSED
TOTAL RESTITUTION \$.00	0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750
TOTAL RESILIOITON 3.00	0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500
IF THE OFFENSE OCCURRED ON/AFTE	
12/23/91 AN ASSESSMENT OF \$50 I	
IMPOSED ON EACH CONVICTED COUNT	() COURT ORDERS THAT COLLECTION OF DEDR PENALTY BE SUSPENDED UPON DEFENDANT'S
UNLESS THE BOX BELOW INDICATES	
A HIGHER ASSESSMENT (\$30 IF OF-	
FENSE OCCURRED ON/AFTER 1/9/86	2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED OFFENSES @ \$50.
UNLESS HIGHER ASSESSMENT NOTED)	
(\$25 IF OFFENSE BEFORE 1/1/86)	
	4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF MO. IS ORDERED
(X) ASSESSMENT IMPOSED ON	THE SUSPENSION BEGINSEND:
	DRIVERS LICENSE #
IS \$50.00 EACH.	
TOTAL VCCB ASSESS \$50.00	DEFENDANT ADDRESS:
SSNA \$75.00	EYE COLOR SEX DATE OF BIRTH () DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM
() INSTALLMENT PAYMENTS ARE	() DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS DICENSE FROM
OF \$PER BEGINNING	JURISDICTION DRIVERS LICENSE # MONTHS () YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR MONTHS
BEGINNING	() TOOK NON-RESIDENT DETVINE PRIVILEGE TO REVOKED FOR NONTHE
TE OFFENSE OCCUPRED ON/AFTER 02.	01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS
ORDERED EACH OCCASION A PAYMENT	
IF OFFENSE OCCURRED ON/AFTER 08.	02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION
IF OFFENSE OCCURRED ON/AFTER 01,	05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERE
AMOUNT PER MONTH n/a	
NAME OF FORM PREPARER	TELEPHONE# NAME (ATTORNEY)
S. ARRISON	609 853 3534 NEIL A HARTMAN ESQ.
REPORTER:	REASONS

SEE ATTACHED 'REASONS FOR SENIENCE'

WALTER L MARSHALL JR, J.S.C.

JUDGE (NAME)

JUDGE (SIGNATURE)

MARCH 21 2005

DATI

SENTENCE DATE: 3/21/05

STATE v. NICOLE PFUND INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I, A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

REASONS FOR SENTENCE, WHICH APPLY TO ALL SENTENCES

AGGRAVATING FACTOR(S):

The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

N	a	n	ρ
1 4	•	.,	┏.

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

SUPERIOR COURT OF NEW JERSEY COUNTY OF GLOUCESTER LAW DIVISION - CRIMINAL

THE STATE OF NEW JERSEY

JULY TERM, 2004

V.

(A)

INDICTMENT NO. 04-08-00600-

NICOLE PFUND

Defendants

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Harrison, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Warren's Hardware having a value in excess of \$500.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 3rd degree. D.P. (theft by decep)

SECOND COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, did issue check number 3700 drawn on the account of Tabitha Rastelli at the Wachovia Bank in the amount of \$1,122.88 knowing that Wachovia Bank would not honor said check, contrary to the provisions of N.J.S. 2C:21-5 and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 3rd degree. W2004-000084-0808 (bad check)

THIRD COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 6, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Warren's Hardware check number 3700 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Warren's Hardware in the amount of \$1,122.88, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000084-0808 (uttering)

FOURTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 8, 2003, in the Township of Harrison, County of Gloucester, and within the jurisdiction of this Court, purposely did obtain the property of Eckerd Store having a value in excess of \$200.00, by deception, that is by creating or reinforcing the false impression that the uttered check was not fraudulent; contrary to the provision of N.J.S. 2C:20-4, and against the peace of the State, the government and dignity of the same. Said crime being a crime of the 4th degree. D.P. (theft by decep)

FIFTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 8, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, did issue check number 3703 drawn on the account of Tabitha Rastelli at the Wachovia Bank in the amount of \$269.12 knowing that Wachovia Bank would not honor said check, contrary to the provisions of N.J.S. 2C:21-5 and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000084-0808 (bad check)

SIXTH COUNT

The Grand Jurors of the State of New Jersey, for the County of Gloucester, upon their oaths present that **NICOLE PFUND**, on or about October 8, 2003, in the Township of Harrison, County of Gloucester, aforesaid and within the jurisdiction of this Court, with purpose to defraud or injure, knowingly did utter as true to Eckerd Store check number 3703 drawn on the account of Tabitha Rastelli at the Wachovia Bank payable to Eckerd Store in the amount of \$269.12, bearing thereon a forged or falsely made signature of endorsement, knowing the same to be forged or falsely made; contrary to the provisions of N.J.S. 2C:21-1a(3), and against the peace of this State, the Government and dignity of the same. Said crime being a crime of the 4th degree. W2004-000084-0808 (uttering)

FOREMAN

CASE: 04000860

COUNTY PROSECUTOR

Case 1:06-cr-00023-KAJ Document 33-2 Filed 12/12/2006 Page 25 of 28 STATE OF NEW JERSEY SUPERIOR COURT PAGE 01 OF 01 V. GLOUCESTER COUNTY LAW DIVISION-CRIMINAL

XX JUDGMENT OF CONVICTION NICOLE PFUND CHANGE OF JUDGMENT 981511B XX ORDER FOR COMMITMENT DATE OF BIRTH 07/18/1975 S.B.I.# DATE OF ARREST DATE IND/ACCUSATION FILED 08/11/2004 INDICTMENT/ACCUSATION DISMISSED ORIGINAL PLEA WAS JUDGMENT OF ACQUITTAL DATE OF THE __ NOT GUILTY XX GUILTY ORIGINAL PLEA 01/31/2005 ADJUDICATION BY XX GUILTY PLEA DATE 01/31/2005 ____ NON-JURY TRIAL DATE __ JURY TRIAL DATE ___ DISM/ACQUITTED DATE ORIGINAL CHARGES ON IND 04-08-00600-I COUNT(S) DESCRIPTION DEGREE STATUTE 001, 004 THEFT BY DECEPTION 4 2C:20-4 002, 005 BAD CHECKS OVER \$200 -KNOWING 4 2C:21-5 003, 006 FORGERY-UTTER 4 2C:21-1A(3)

FINAL CHARGES

COUNT(S) DESCRIPTION

DEGREE STATUTE 3 2C:20-4

IT IS THEREFORE ON MARCH 21 2005

THEFT BY DECEPTION

ORDERED AND ADJUDGED THAT THE DEFENDANT IS SENTENCED AS FOLLOWS:

COUNT 001, THEFT BY DECEPTION, 3RD DEGREE: THE DEFENDANT IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 4 YEARS, C/C TO A04-09-00660-I & TO THE SENTENCE SHE IS CURRENTLY SERVING OUT OF CAMDEN AND/OR BURLINGTON COUNTIES. CREDIT FOR TIME SERVED OF 16 DAYS (4/29/04 TO 5/5/04 & 5/9/04 TO 5/17/04). GAP TIME CREDITS OF 76 DAYS (5/6/04 TO 5/8/04 & 1/7/05 TO 3/20/05). FINES & PENALTIES OF \$50 VCCB & \$75 SSNA. RESTITUTION AS INDICATED IN A04-09-00660-I. MONETARY PAYMENTS, INCLUDING RESTITUTION, AND DNA TESTING & COSTS ARE C/C TO A04-09-00660-I. ** DISMISSALS: COUNTS 2 THRU 6 OF 04-08-00600-I.

CARE COMMISS/CORR

TOT. PROBATION: 00Y 00M

^() IT IS ORDERED THAT THE SHERIFF DELIVER THE DEFEND. TO THE APPROPRIATE CORRECTIONAL AUTHORITY.

⁽X) DEFENDANT RECEIVES CREDIT FOR TIME SPENT IN CUSTODY

TOT. DAYS 16 DATES SEE ABOVE

⁽X) DEFENDANT RECEIVES GAP TIME CREDIT FOR TIME SPENT IN CUSTODY

⁽X) DEFENDANT RECEIVES GAP TIME TOT. DAYS 76 DATES SHE ABOVE

TOT. CUSTODIAL TERM 04Y 00M 000 INSTITUTION:

STATE OF NEW JERSEY 1:06-CE PROD3-KAJ Document 3312 981 Filed 12/12/20068-0 Rage 26 of 28 \$.00 1) A MANDATORY DEDR PENALTY IS IMPOSED TOTAL FINE \$.00 0 1ST DEGREE @ \$3000 0 4TH DEGREE @ \$750 TOTAL RESTITUTION 0 2ND DEGREE @ \$2000 DISORDERLY PERSONS @ \$500 IF THE OFFENSE OCCURRED ON/AFTER 0 3RD DEGREE @ \$1000 12/23/91 AN ASSESSMENT OF \$50 IS-TOTAL DEDR PENALTY \$.00 IMPOSED ON EACH CONVICTED COUNT () COURT ORDERS THAT COLLECTION OF DEDR PENALTY BE SUSPENDED UPON DEFENDANT'S ENTRY INTO A RESIDENTIAL DRUG PROGRAM FOR THE TERM OF THE PROGRAM UNLESS THE BOX BELOW INDICATES A HIGHER ASSESSMENT (\$30 IF OF-2) A FORENSIC LABORATORY FEE OF \$50 PER OFFENSE ORDERED __ OFFENSES @ \$50. FENSE OCCURRED ON/AFTER 1/9/86 TOTAL LAB FEE \$.00 UNLESS HIGHER ASSESSMENT NOTED) (\$25 IF OFFENSE BEFORE 1/1/86) 3) DRUGS INVOLVED: 4) A MANDATORY DRIVER'S LICENSE SUSPENSION OF ____ MO. IS ORDERED (X) ASSESSMENT IMPOSED ON THE SUSPENSION BEGINS END: DRIVERS LICENSE # COUNT(S) 1 \$50.00 EACH. IS DEFENDANT ADDRESS: _ SSNA \$75.00 \$50.00 DATE OF BIRTH SEX EYE COLOR_ () INSTALLMENT PAYMENTS ARE () DEFENDANT HOLDS AN OUT-OF-STATE DRIVERS LICENSE FROM JURISDICTION · DRIVERS LICENSE # PER _ OF \$ () YOUR NON-RESIDENT DRIVING PRIVILEGE IS REVOKED FOR BEGINNING IF OFFENSE OCCURRED ON/AFTER 02/01/93 & SENTENCE IS PROBATION OR STATE CORRECTIONS, A TRANSACTION FEE UP TO \$1.00 IS ORDERED EACH OCCASION A PAYMENT OR INSTALLMENT IS MADE. IF OFFENSE OCCURRED ON/AFTER 08/02/93 A \$75 SAFE NEIGHBORHOOD SERVICES FUND ASSESSMENT IS ORDERED ON EACH CONVICTION IF OFFENSE OCCURRED ON/AFTER 01/05/94 & SENTENCE IS PROBATION A FEE OF UP TO \$25 PER MO. FOR THE PROB. TERM IS ORDERED

REPORTER:

REASONS

SEE ATTACHED 'REASONS FOR SENTENCE'

WALTER L MARSHALL JR. J.S.C.

JUDGE (NAME)

JUDGE (SIGNATURE)

MARCH 21 2005

DATE

STATE v. NICOLE PFUND SENTENCE DATE: 3/21/05 INDICTMENT NOS. A04-09-00660-I, A04-08-00600-I, A04-07-00567-I, A04-06-00474-I, 04-12-00439-Z AND A04-08-00601-I

Pursuant to a plea negotiated with the State, the defendant pled guilty on January 31, 2005 to Count 5 of Indictment No. A04-09-00660-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-08-00600-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 7 of Indictment No. A04-07-00567-I, theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, to Count 1 of Indictment No. A04-06-00474-I, attempted theft by deception, in violation of NJSA 2C:20-4, a 3rd degree offense, and to Count 1 of Indictment No. A04-08-00601-I, theft by deception, in violation of NJSA 2C:20-4, a 4th degree offense. The Court has reviewed the pre-sentence report and finds the following factors:

REASONS FOR SENTENCE, WHICH APPLY TO ALL SENTENCES

AGGRAVATING FACTOR(S):

3. The risk that the defendant will commit another offense.

The defendant's record is voluminous. This factor applies and is given substantial weight.

6. The extent of the defendant's prior criminal record and the seriousness of the offenses of which she has been convicted.

This factor applies and is given substantial weight.

9. The need for deterring the defendant and others from violating the law.

This factor applies in every case of this type. This especially applies due to the fact that the defendant is a repetitive offender. This factor is given substantial weight.

MITIGATING FACTOR(S):

N	_	-	_
IN	U	H	e.

This was a negotiated plea agreement between the prosecutor and the defendant. There is, therefore, a presumption of reasonableness. It appears appropriate under all the facts and circumstances and, in the interests of justice the Court will impose the recommended sentence.

The aggravating factors substantially outweigh the mitigating factor(s).

There is no presumption for or against incarceration for these third degree crime.

OURT DAME ADDRESS, TELEPHONE NO.	R 2-3004-000306-0832
ონოგი 1:06-cr-00023-KAJ	Document 33-2 Filed 12/12/2006 Page 28 of 28
6 ZOD N BROAD STREET	132 Flores for 1-5
\$ 856~845-0691 NS 08036	Addition The Set FILMERT ST / 67 4 hote) 1 FT 1/7-4
GLOUCESTER NJ COURT CODE	The state of the s
OURT DOCKET NUMBER(S)	City. State CLOUCESTER CITY NJ 08030 SS No. 138-64-8492 UEA
1 THRU 1	07-18 1070
	Date of Fight 00~00-0000
imper of co-detendants 000 Dr. Lie	a TARAWAGA
mpialnami COMPLA	# P30545910057764 EBI NO
mp: ALBERT ANDERSON	SUMMONS
	Of WOODBURY CITY POLICE DEPT
SIGNED BY	Three such and the
Office to see a	THE PROPERTY OF THE PROPERTY O
;	0872
WITHIN THE JURISDICTION OF THIS	Southly Calc. N.J.
AND THARTY DEVEN CENTS (5708 57)	COURT, ISSUE OR PASS A CHECK OR OTHER SIMILAR DNEY IN THE ANOUNT OF TWO HUNDRED EIGHT DOLLARS KNOWING THAT IT WOULD NOT BE HONORED
NUMBER 1010031367537 AUSTECIFICAL	ONEY IN THE AMOUNT OF TWO HUNDRED EIGHT DOLLARS KNOWING THAT IT WOULD NOT BE HONORED BY THE LLY BY ISSUEING A CHECK, #3682 FROM ACCOUNT DYIA BANK FOR OFFICE SUPPLYES. AND MACCOUNT
THE COMPLATION TO A THE	
IS NOT REQUIRED PRIOR TO THE ISSUEAN	OFFICER AND A JUDICIAL PROBABLE CAUSE DETERMINATION CE OF THE COMPLAINT SUPPONS
	The state of the s
	11-14-04 Place Kenank
<u> </u>	4-14-04 Place Remark 20:21-5B
/Tolstion Of: Domestic Violence	Confidential
Charge Num	The state of the s
J.S. 2C:71 5C(3) ACSX N.J.S.	Charge Number
I.S. Charge Num	Der As Amended Communication ACSX
Supported and swam to before me this	ACSX N.J.S.
od	day of APRILL 20 Q4
NAME AND THE OF PERSON ADMINISTERAND DATES	Signeyo ITI. Clear Come
YOU ARE HEREBY SUMMONED TO ARREAD	Kork, change
FOR YOUR ARREST	BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF AT THE TIME STATED, A WARRANT WILL BE ISSUED
DATE SUMMONS ISSUED 04/08/2004 P.	ATEC ME TORNED
	7) ' CETT' FAME WITCHE AND
(SIGNATURE PERSON ISSUING SUNNON	YXThe TXThe
SAMOS 9- COURT AC	OTTOM Ruham to
E HOUSE PLEA DATE OF PLEA ADMINISTRATION OF ROUTE	OTION (Where Judgement or Conditional Discharge is Entered) METHOD OF SERVICE:
1 01604	and this lift tells are
1 Mg. 104 /5-1/14/25	TERM THE PARTY IN
	5000 75 33
, - - - - - - - - - 	1/2/15
<u> </u>	The state of the s
HER COURT ACTION Total DEDA Penalty Amount	-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
present occupant to Total Lab Fee Constitional Organization and Constitional Consti	Total Violent Crimes Assessment Amount: 52
	The state of the s
Hesting Hesting	Union JAIL TladE
MO PROME OF PERSONAL CONTACT WITH VICTAL NO POSSESSION PAREARMS / WEAPORS	CHEOM DEE TO APPEAD
(FTA OR RAIL) INFORMATI	
PARTURET BAIL DET PRIL DE BAIL BAIL BAIL SE COMMENT	TED COMMETTED A LOCK COMMETTED TO THE CO
CHENNY - PERSON PORTING BAL - DELICATED IN CUSTODY OF - ROORES	54 PER MONTH
	19-104
PROSECUTING ATTORNEY A	ND DEFENSE COUNSEL INFORMATION
MATE COUNTY SELECTATE CHACK	OFFERS WORK PETAND PUBLIC ASSESSED LANGE
MISCRIT AND	2 COURSE INFORMATION 2 COURSE
	EUOS INFORMATION
JAN 1 4 2005 DEFENDANT	
ADVISED	
ADVISED OF RIGHTS	
J.OCK	
nan .	OFWGINAL BATT
r ^r van	OFIGINAL BATE